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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/648,720

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Mark E. Redding

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7459

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09/14/2009

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EXAMINER

BLAIR, DOUGLAS B

ART UNIT

PAPER NUMBER

2442

MAIL DATE

DELIVERY MODE

09/14/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/648,720	Applicant(s) REDDING ET AL.	
	Examiner DOUGLAS B. BLAIR	Art Unit 2442	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 16, 18 and 21-33 is/are rejected.
- 7) ☒ Claim(s) 2-15, 17, and 19-20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/8/2008 has been entered.

Response to Arguments

Applicant's arguments with respect to claims 1, 16, and 18-33 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 16, 18, and 21-33 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent Number 5,745,879 to Wyman.

As to claim 1, Wyman teaches a system for balancing a distribution of allocations for protected software over a communication network according to a license policy, the system comprising: at least one client computer coupled to the communication network for requesting

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authorizations to use the protected software (user CPU 16 in Figure 1); and a pool of license servers coupled to the communication network (delegate servers 13 in Figure 1), each license server in the pool is programmed for managing a distribution of allocations for at least one client computer coupled to the communication network to use the protected software (col. 9, lines 23-29); the pool of license servers including a current leader server (server 10 in Figure 1) programmed for updating the distribution of allocations to add at least one additional allocation to a particular license server if that particular license server has an insufficient number of allocations (col. 12, lines 30-33), wherein each license server in the pool can directly communicate with the at least one client computer coupled to the communication network (col. 8, lines 55-58), and wherein each license server in the pool manages the distribution of allocations substantially in the same manner as the other license servers in the pool (col. 9, lines 23-29).

As to claim 30, See col. 9, lines 23-29.

As to claim 31, See col. 9, lines 23-29 and col. 12, lines 30-33.

As to claim 32, See col. 11, lines 43-58.

As to claim 33, See Col. 11, lines 1-37 and 43-58.

As to claim 16, Wyman teaches a method for balancing a distribution of allocations for using protected software by at least one client computer coupled to a communication network, the method comprising the steps of: coupling a pool of license servers to the communication network (delegate servers 13 in Figure 1); assigning a distribution of allocations to the pool (col. 9, lines 30-48); programming each license server to the pool to manage the distribution of allocations including processing requests for authorization to use the protected software from at

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least one client computer coupled to the communications network (col. 9, lines 23-29); designating a current leader server from the license servers in the pool (server 10 in Figure 1) and programming the current leader for updating the distribution of allocations to add at least one additional allocation to a particular license server if that particular license server has an insufficient number of allocations in response to a request for authorization received from a client computer (col. 12, lines 30-33), wherein each license server in the pool can communicate directly with the at least one client computer coupled to the communication network (col. 8, lines 55-58), and wherein each license server in the pool manages the distribution of allocations substantially in the same manner as the other license servers in the pool (col. 9, lines 23-29).

As to claim 18, See col. 12, lines 30-33.

As to claims 21-22, See col. 11, lines 43-58.

As to claims 23-34, See col. 11, lines 1-37.

As to claims 25-29, See Col. 11, lines 1-37 and 43-58.

Allowable Subject Matter

Claims 2-15, 17, and 19-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The prior art does not anticipate or make obvious the claimed subject matter in claims 2 and 17. Specifically, the prior art does not teach or suggest the specifically claimed process and system for determining a need for more licenses at a particular server.

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As to claim 19, the prior art does not teach or suggest checking a count of available authorizations in all of a free pool, any down license server, and the current leader server in the context claimed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DOUGLAS B. BLAIR whose telephone number is (571)272-3893. The examiner can normally be reached on 9:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on (571) 272-3868. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Douglas B Blair/
Primary Examiner, Art Unit 2442

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